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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,248	11/21/2003	William Taylor II	22-0567	2198

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EXAMINER

LEWIS, AARON J

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,248

Applicant(s)

TAYLOR ET AL.

Examiner

AARON J. LEWIS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Drager ('766).

As to claim 1, Drager discloses a tank retaining device (fig.1) for use with a conventional buoyancy control device and scuba tank comprising: a ring member (C) having a diameter smaller than the scuba tank, said ring member being for abutting a bottom of said scuba tank; a plurality of strap members (a', a2, b', b2), each one of said plurality of strap members having a distal end (f,h) and a proximal end (not enumerated but illustrated as coupled to the ring member in fig.1), each proximal end being operationally coupled to said ring member (fig.1); each one of the distal ends of said plurality of strap members being couplable to a tank securing strap of the buoyancy control device; and said plurality of strap members and said ring member inhibiting the scuba tank from slipping downwardly in reference to the buoyancy control device.

Inasmuch as claim 1 recites a tank retaining device "...for use with..." a conventional buoyancy control device and scuba tank, it has been interpreted as being drawn to a tank retaining device alone, not to a combination of a tank retaining device and scuba tank including a conventional buoyancy control device.

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drager ('766) in view of Haber ('894).

The difference between Drager and claim 2 is a second fastening means positioned centrally on said strap member, said second fastening means being positioned on said first side of said strap member, said second fastening means being complementary to said first fastening means; said first fastening means being selectively couplable with said second fastening means.

Haber (fig.2), in a tank retaining device, teaches a second fastening means (36) positioned centrally on said strap member, said second fastening means being positioned on said first side of said strap member (figs.3 and 4), said second fastening means being complementary to said first fastening means; said first fastening means being selectively couplable with said second fastening means for the purpose of providing an adjustment in the strap member in order to accommodate different user sizes.

It would have been obvious to modify the strap member of Drager to include complementary first and second fastening means thereon because it would have provided an adjustment in the strap member in order to accommodate different user sizes as taught by Haber.

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As to claim 3, the first and second fastening means of Haber are hook and loop fasteners (36).

As to claim 4, while Drager and Haber lack an express disclosure of strap width, the strap width can be arrived at through mere routine obvious experimentation and observation with no criticality seen in any particular strap width including one inch. One of ordinary skill would recognize that factors that affect the strap width of Drager as modified by Haber would have included wearer comfort as well as convenience; accordingly, making the straps one inch wide would have provided straps which are reasonably comfortable and easier to use given that a one inch width is consistent with many shoulder straps for luggage, backpacks and men's suspenders.

As to claim 5, Drager as modified by Haber disclose said plurality of straps comprises four strap members.

Claim 6 is substantially equivalent in scope to the combination of claims 1-5 and is included in Drager as modified by Haber for the reasons set forth above with respect to claims 1-5. Inasmuch as claim 6 recites a tank retaining device "...for use with..." a conventional buoyancy control device and scuba tank, it has been interpreted as being drawn to a tank retaining device alone, not to a combination of a tank retaining device and scuba tank including a conventional buoyancy control device.

Conclusion

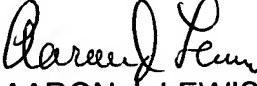
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of the art is cited to show relevant tank retaining devices.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON J. LEWIS whose telephone number is (571) 272-4795. The examiner can normally be reached on 9:30AM-6:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HENRY A. BENNETT can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AARON J. LEWIS
Primary Examiner
Art Unit 3743

Aaron J. Lewis
December 08, 2004